

REMARKS

Status of Claims

Applicant respectfully requests reconsideration and allowance of all of the claims of the Application. The status of the claims is as follows:

- Claims 1-27, 29-38 and 40-46 were pending at the time of the Office Action.
- Claims 20-22 are canceled herein.
- Claims 12, 17, 23, 24, 27, 33 and 38 are amended herein.
- No new claims are added herein.
- Following entry of the amendments herein, claims 1-19, 23-27, 29-38 and 40-46 will be pending.
- Claims 1, 12, 17, 23, 33 and 38 are independent.

The pending claims remain allowable at least for the reasons set forth in the Response filed January 21, 2010. Applicant respectfully requests reconsideration and allowance of all of the claims of the application.

Election/Restriction

The Office Action sets forth a Restriction Requirement under 35 U.S.C. § 121, and requires the election of one of the following groups for prosecution on the merits:

- I. Group 1, claims 1-11, allegedly drawn to "a method of streaming data, classified in class 709, subclass 231" (Restriction Requirement, page 2);
- II. Group 2, claims 12-16, allegedly drawn to "a method of compressing data using a cost function, classified in class 709, subclass 228" (Id.);

- III. Group 3, claims 20-22, allegedly drawn to “a method of dynamically tuning compression parameters, classified in class 709, subclass 220” (Id.); and
- IV. Group 4, claims 17-19, 23-27, 29-32, 33-38, 40-46, allegedly drawn to “a method for transmitting compressed data, classified in class 709, subclass 247” (Id).

Applicant respectfully elects Group I, **with traverse**, in the event that the Restriction Requirement is made final. Following the amendments herein, Group I includes claims 1-19, 23-27, 29-38 and 40-46.

Applicant respectfully traverses the Restriction Requirement. Applicant respectfully requests reconsideration and withdrawal of the Restriction Requirement for the reasons set forth below. Applicant specifically reserves the right to Petition under 37 CFR §1.144 upon the Restriction Requirement being made final.

The Restriction Requirement Fails to Establish a *Prima Facie* Burden

Applicant notes that “[f]or purposes of the initial requirement, a serious burden on the examiner may be prima facie shown by appropriate explanation of separate classification, or separate status in the art, or a different field of search as defined in MPEP § 808.02.” (MPEP § 808.02, emphasis added). The Restriction Requirement asserts that Group IV is classified in 709/247 while Group I is classified in 709/231. However, numerous of the claims asserted to be in Group IV (even prior to the amendments herein) included streaming of data (see, e.g., claims 17, 24, 27, 32, 33, 37, 38 and 46). Accordingly, the Examiner will need to search both subclasses 709/247

and 709/231, and there is therefore no added burden on searching both Group I and IV. Further, the Examiner has failed to draw any distinction between the streaming in Group I and the streaming in Group IV. "Examiners must provide reasons and/or examples to support conclusions" (MPEP §803.01(II)). Accordingly, the Restriction Requirement has not set forth a *prima facie* case that a burden exists if the claims of Group I and IV are examined together, and therefore, the Restriction Requirement between Groups I and IV is improper.

Groups I, II and IV Overlap in Scope

A restriction requirement under §806.05(d) is only proper if the inventions as claimed "do not overlap in scope" (i.e., are mutually exclusive). See, MPEP §806.05(d). However, the claims in Group I, II and IV do overlap in scope. For example, claims 12-15 (Group II) and claims 17, 24, 27, 32, 33, 37, 38 and 46 (Group IV), even before the amendments herein, recite streaming data, which is alleged to comprise Group I. Thus, contrary to the assertion by the Office, the claims of Groups I, II and IV use streaming and, therefore, the claims of Groups I, II and IV overlap in scope based on the Groups defined by the Office.

The Restriction Requirement Fails to Provide a Clear Demarcation between Restricted Inventions

The Restriction Requirement fails to provide a clear demarcation between restricted inventions, as required by MPEP §814. For example, claims 12-15 (Group II) and claims 17, 24, 27, 32, 33, 37, 38 and 46 (Group IV) recite streaming data, which is

alleged to comprise Group I. Thus, the Office has provided no clear demarcation between the restricted inventions of Groups I, II and IV. Therefore, it is unclear whether any inventions claimed in a continuing application would be consonant with the Restriction Requirement, and it is unclear how the prohibition against double patenting would potentially be applied to the non-elected claims. See MPEP §§ 804.01 and 814.

Linking Claims

Claims 20-22 have been canceled to expedite prosecution. Should the Restriction Requirement be made final, Applicant specifically reserves the right to add linking claims in the next response directed to any restricted inventions.

Amendments to the Claims

While Applicant has traversed the Restriction in order to preserve rights should Applicant wish to pursue the claims defined by the Office as belonging to Groups II and IV, Applicant has amended independent claims 12, 17, 23, 33 and 38 to bring these claims within Group I, as defined by the Office.

Claim 12 has been amended to remove the limitation “employing a cost function to determine that the representation utilizes less memory space when stored than the matching sequence.” Therefore, claim 12 is no longer within Group II. Furthermore, “streaming the configured data over a network” has been added to this claim. Consequently, claim 12 and its dependents are now included in Group I.

Claim 17 already recited "streaming the packetized compressed data over the network...", but claim 17 has been further amended as "A method for streaming data...." Consequently, claim 17 and its dependents are now included in Group I.

Claim 23 has been amended to include "form compressed data that includes one or more said representations; and stream the compressed data over a network." Consequently, claim 23 and its dependents are now included in Group I.

Claim 33 already included "...stream the packetized configured data over a network." However, claim 33 has been further amended to be "A system for streaming data...." Consequently, claim 33 and its dependents are now included in Group I.

Claim 38 has been amended to include "stream the data to the client." Consequently, claim 38 and its dependents are now included in Group I.

Conclusion

In view of the foregoing, Applicant respectfully requests examination and allowance of claims 1-19, 23-27, 29-38 and 40-46. These claims remain allowable at least for at least the reasons set forth in the Response filed January 21, 2010. Favorable consideration and an early notice of allowance are respectfully requested. If any issue remains unresolved that would prevent allowance of this application, **Applicant respectfully requests that the Office contact the undersigned representative to resolve the issue.**

Respectfully Submitted,

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